

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**IN RE: NATIONAL COLLEGIATE
ATHLETIC ASSOCIATION STUDENT-
ATHLETE CONCUSSION LITIGATION**

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MDL No. 2492

Master Docket No. 1:13-cv-09116

Judge John Z. Lee

Magistrate Judge M. David Weisman

**STATUS REPORT ON
NOTICE TO MEMBERS OF THE SETTLEMENT CLASS**

The National Collegiate Athletic Association (the “NCAA”), through its counsel, submits the following status report on the progress of the Notice Plan in the above-captioned matter.

This status report provides information on the progress achieved in completing the Notice Plan since the October 20, 2016 Status Report On Notice (the “October 2016 Status Report”) (Dkt. #301):¹

1. On November 30, 2016, a status conference was held in this matter. At the November 30, 2016 status conference, the Parties provided an update to the Court on the progress of complying with the Notice Plan. As part of that update, the Parties proposed that the NCAA send a third and final letter to member institutions requesting last-known contact information for Settlement Class Members.² The Parties also sought the Court’s approval for Class Counsel to issue subpoenas to member institutions that had failed to provide the requested

¹ Unless otherwise defined, capitalized terms have the meaning ascribed to them in the Second Amended Settlement Agreement, which is Exhibit 1 to the joint motion for preliminary approval filed with the Court on May 20, 2016. See Second Am. Settlement Agt. (Dkt. #266-1).

² The NCAA sent its first letter to member institutions requesting last-known contact information for Settlement Class Members on July 29, 2016 and its second letter on October 19, 2016. See Spellman Decl., Ex. A, ¶¶ 2-3. A third, follow-up request was then sent on December 15, 2016 to member institutions that had not produced the requested data as of that date. See id. ¶ 4.

information in response to the NCAA's final letter, either because no response had been received or due to concerns relating to privacy and the Family Educational Rights and Privacy Act ("FERPA"). At the November 30, 2016 status conference, the Court approved the issuance of subpoenas. See Minute Entry (Dkt. #312).

2. On December 15, 2016, the NCAA sent a letter to member institutions that had not yet provided the Notice Administrator with last-known contact information for Settlement Class Members. See Spellman Decl., Ex. A, ¶ 4. In its letter, the NCAA again requested that the institutions provide the information as soon as possible and informed the institutions that if they did not comply with the request, Class Counsel would serve subpoenas for the requested information. See id.

3. Following the NCAA's December 15, 2016 letter, Class Counsel served 385 subpoenas on member institutions that had not provided the requested information or that had requested a subpoena due to concerns about compliance with the FERPA.³ See Spellman Decl., Ex. A, ¶ 5.

4. In response to the NCAA's December letter and in response to the subpoenas issued by Class Counsel, the NCAA and its counsel have responded to numerous inquiries from NCAA member institutions. From July 2016 through January 5, 2017, over 387 inquiries have been received from approximately 303 different institutions. See Spellman Decl., Ex. A, ¶ 6. The recent communications have further confirmed that most member institutions have been working diligently to collect and provide the requested information to the extent it is available.

³ Class Counsel had previously served subpoenas in November of 2016 on 64 member institutions that previously requested a subpoena due to concerns about FERPA compliance. See Spellman Decl., Ex. A, ¶ 5.

See id. The Parties expect that most of the member institutions that received subpoenas will provide the requested information by January 31, 2017.⁴ See id. ¶¶ 6-7.

5. As of January 5, 2017, 803 NCAA member institutions have uploaded student-athlete contact information to the Notice Administrator, with a total of approximately 3,243,000 records uploaded.⁵ See Spellman Decl., Ex. A, ¶ 8.

6. The Parties expect that direct notice will be sent to approximately 3,175,000 Settlement Class Members via U.S. mail and e-mail beginning on January 9, 2017. See Spellman Decl., Ex. A, ¶ 9. Additional direct notice will be sent to Settlement Class Members whose last-known contact information is provided pursuant to the subpoenas Class Counsel served in November and December 2016. See id.

7. The NCAA, of course, will continue to keep the Court apprised of the progress achieved in completing the Notice Plan.

Dated: January 6, 2017

Respectfully submitted,

/s/ Mark S. Mester

Lead Counsel for Defendant
National Collegiate Athletic Association

⁴ A handful of member institutions have contacted the NCAA's counsel and/or Class Counsel and have indicated that due to exigent circumstances, they may not be able to meet a January 31, 2017 deadline. See Spellman Decl., Ex. A, ¶ 7. Those institutions have, in turn, requested a further extension. See id.

⁵ The number of records uploaded as of January 5, 2017 is based on information that NCAA member institutions provided when they uploaded files to the Notice Administrator. The Notice Administrator is working to verify the completeness of those records and accuracy of that number. See Spellman Decl., Ex. A, at ¶ 8.

Mark S. Mester
mark.mester@lw.com
Johanna Spellman
johanna.spellman@lw.com
LATHAM & WATKINS LLP
330 North Wabash Avenue, Suite 2800
Chicago, Illinois, 60611
Telephone: (312) 876-7700
Facsimile: (312) 993-9767

CERTIFICATE OF SERVICE

I, Mark S. Mester, certify that on January 6, 2017, a true and correct copy of the forgoing STATUS REPORT ON NOTICE TO MEMBERS OF THE SETTLEMENT CLASS was filed through the CM/ECF system, which caused notice to be sent to all counsel of record.

/s/ Mark S. Mester

Mark S. Mester

mark.mester@lw.com

LATHAM & WATKINS LLP

330 North Wabash Avenue, Suite 2800

Chicago, Illinois, 60611

Telephone: (312) 876-7700

Facsimile: (312) 993-9767